

**REMARKS**

Upon entry of the present amendment, claims 1-3, 5, 6 and 9 will have been amended. Claim 4 will have been canceled without prejudice or disclaimer of the subject matter.

Upon entry of the present response, Applicants respectfully request reconsideration and withdrawal of each of the outstanding rejections set forth in the above-mentioned Official Action. Such action is now believed to be appropriate and proper and is thus respectfully requested, in due course.

Initially, Applicants wish to respectfully thank the Examiner for indicating his acceptance of the drawings filed in the present application on July 22, 2005.

Applicants additionally wish to respectfully thank the Examiner for acknowledging their claim for foreign priority under 35 U.S.C. § 119 as well as for confirming that the certified copies of the foreign priority documents have been received from the International Bureau.

Finally, Applicants respectfully thank the Examiner for considering the documents cited in the Information Disclosure Statements filed in the present application on September 30, 2005, October 25, 2006 and on April 8, 2008 by the return of the signed and appropriately annotated copies of the PTO-1449 forms attached to each of the above noted Information Disclosure Statements.

In the outstanding Official Action, the Examiner rejected claims 1-9 under 35 U.S.C. § 112, first paragraph. The Examiner asserted that the claims fail to comply with the enablement requirement. The Examiner asserted that the claims contain subject

matter which was not described in the specification in such a manner as to enable one skilled in the art to make and/or use the invention. In particular, the Examiner asserted that the term "application communication service control" is not described in the present application in sufficient detail to perform such control without undue experimentation.

By the present response, Applicants have deleted the above noted term. Accordingly, at least for this reason, the basis for the above noted rejection has been eliminated. In this regard, Applicants note that according to a non-limiting embodiment of the present invention as disclosed in the instant application, the control section can refer to the connection control section 12 which is clearly described in Applicants original disclosure with respect to Figure 3 and particularly with regard to the description thereof at paragraphs [0044] through [0049].

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection of claims 1-9 as failing to comply with the enablement requirement under 35 U.S.C. § 112, first paragraph.

In the outstanding Official Action the Examiner rejected claims 1-9 under 35 U.S.C. § 102(e) has been anticipated by CHESSON (U.S. Patent No. 6,795,407). Applicants respectfully traverse the above noted rejection and submit that it is inappropriate with respect to the combination of features recited in Applicants pending claims.

In particular, Applicants respectfully submit that the disclosure of the CHESSON reference is inadequate and insufficient to anticipate or even to render unpatentable the combinations of features now more clearly recited in Applicants pending claims.

Applicant's invention is directed to a communication control apparatus and to a

communication control method. Utilizing the communication control apparatus as defined in claim 1 as a non-limiting example of Applicants' invention, the apparatus includes a detection section that detects at least one of a radio environment comprising a radio communication field intensity and a modulation scheme for radio communication or a network environment comprising identification information of a network with which the communication control apparatus is associated and a communication condition of the network. A lower layer management section stores information of the detected radio environment or network environment, monitors whether or not a change has occurred in the radio environment or in the network environment, and provides a monitoring result to an upper layer, above a transport layer, without the result being conveyed through the transport layer. A control section performs communication service control in the upper layer, above the transport layer, based upon the monitoring result received from the lower layer management section without the result being conveyed through the transport layer.

The above noted combination of features is respectfully submitted to not be disclosed, taught, or even suggested or rendered obvious by the disclosure of CHESSON applied by the Examiner against all of the claims pending herein.

In particular, CHESSON is directed to methods for controlling shared access to wireless transmission systems and increasing throughput of the same. CHESSON discloses implementing a calibration mode by which individual nodes of a wireless communication system can determine which other nodes in the system are close to them and therefore can be accessed with less than full transmission power. Nodes which can communicate with one another via low-power can form a low-power constellation, which is a subset of the complete network, and whose nodes can communicate directly with one

another using the low-power arrangement. Accordingly, as can readily be seen from the above, CHESSON merely relates to communication between nodes of a network.

In direct contrast with the above, Applicants' invention is directed to a communication control apparatus including, inter alia, a lower layer management section that provides a monitoring result to an upper layer, above a transport layer without the result being conveyed through the transport layer, and a control section, that performs communication service control in the upper layer, above the transport layer, based on the monitoring result received from the lower layer management section without the result being conveyed through the transport layer.

As a result of the combination of features recited in Applicants claims, the present invention produces effects and results and provides significant benefits and advantages that are not produced or provided by the CHESSON reference relied upon by the Examiner in the outstanding Official Action. In particular, in a communication terminal apparatus, in which communication conditions change periodically, such as e.g. when the communication terminal apparatus moves, when applications for video, image or speech, that require real-time processing are utilized, the applications are able to switch the service to support the change in the communication condition more rapidly. Accordingly, it is possible to provide immediate communication service, which users can perceive as being seamless, in a mobile communication environment. In this regard, the Examiner's attention is respectfully directed to Applicants disclosure at [0008] and [0009].

As noted above, CHESSON is not directed to the above noted features of Applicant's invention. In particular, the lower layer management section and the control section as defined in Applicants claims, in the claimed combinations are not disclosed

therein. Accordingly, CHESSON cannot achieve the above noted benefits, advantages and results.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all of the claims in the present application, in due course. Such action is respectfully submitted to now be appropriate and proper.

## **SUMMARY AND CONCLUSION**

Applicants have made a sincere offer to place the present application in condition for allowance and believe that they have now done so. Applicants have amended the claims to clarify the features of Applicants' invention and to even more clearly emphasize the distinctions between the present invention and the prior art of record herein.

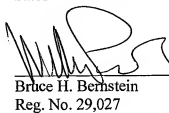
Applicants have discussed the Examiner's rejection under 35 U.S.C. § 112, first paragraph and have amended the claim language to eliminate the basis for such rejection.

Applicants have discussed the disclosure of the reference relied upon by the Examiner and with respect to such disclosure have noted the shortcomings thereof with respect to Applicants' invention. Applicants have additionally discussed the explicit recitations of Applicants' claims and with respect to such recitations have noted the deficiencies of the disclosure of the reference relied upon in the outstanding rejection. Accordingly, Applicants have provided a clear evidentiary basis supporting the patentability of all of the claims in the present application and respectfully request indication to such effect in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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